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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

AMY PATTERSON,

Plaintiff,

vs.

TWO FINGERS, LLC, an Arizona
corporation *dba* Stone and Vine Urban
Italian Restaurant; FOUR FINGERS, LLC,
an Arizona corporation *dba* Salt & Lime
Modern Mexican Grill; SIX FINGERS,
LLC, an Arizona corporation *dba* Black &
Bleu Restaurant; JOSEPH M. POPO and
GABRIELLA POPO,

Defendants.

Case No:

COMPLAINT

JURY TRIAL DEMANDED

Plaintiff alleges:

INTRODUCTION

1. This is a lawsuit for compensatory, declaratory and injunctive relief against Defendants to redress the deprivation of rights secured to the Plaintiff by the Civil Rights Act of 1964, Title VII, 42 U.S.C. § 2000e et seq., as amended by the Equal Employment Opportunity Act of 1972, 42 U.S.C. § 2000e-16 and the Civil Rights Act of 1991, Pub. L. No. 102-166, arising from the hostile work environment caused to Plaintiff by Defendants.

1 that serves Mexican food. The two members for Four Fingers are Joseph M. Popo and
2 Jeffrey T. Gerlinger. Four Fingers did not become incorporated until September 24,
3 2013, and Salt & Lime began its operations shortly thereafter.

4 9. Defendant Six Fingers, LLC is an Arizona Corporation doing business as
5 Black + Bleu, which is a third restaurant in North Scottsdale. One of the members for
6 Six Fingers is an LLC operated by Joseph M. Popo. Six Fingers did not become
7 incorporated until February 7, 2014, and Black + Bleu began its operations shortly
8 thereafter.

9 10. All restaurants mentioned herein operate in the same plaza at 94th Street
10 and Shea Boulevard in North Scottsdale. These restaurant defendants are referenced
11 herein as the corporate Defendants.

12 11. Defendant Joseph M. Popo (“Popo”) is a member for all three Defendant
13 corporations listed herein. For purposes of Plaintiff’s Title VII claims, the corporate
14 Defendants are vicariously liable for Popo’s acts listed below. For purposes of
15 Plaintiff’s common law claims, Popo is individually liable because he was not acting
16 within the course and scope of employment when taking the acts listed below.

17 12. Defendant Gabriella Popo is Popo’s wife and is included in this lawsuit
18 pursuant to A.R.S. § 25-215 although Mrs. Popo has relevant information about Popo’s
19 past alleged indiscretions that relate to the current allegations.

20 **FACTUAL BACKGROUND**

21 13. In September 2011, Plaintiff became employed as a server/waitress with
22 Stone & Vine. Her immediate supervisor was Popo.

23 14. During all relevant times from the date of Plaintiff’s original hire until her
24 resignation in late 2014, none of the corporate Defendants had any policy or procedure
25 in place to complain or report sexual harassment at the workplace. During all relevant
26 times, none of the corporate Defendants had a human resources department.

27 15. Plaintiff worked night shifts at Stone & Vine while she pursued an
28 accountancy career at a local CPA firm during the day hours.

1 16. For two full years, Plaintiff performed her job in a stellar fashion, and
2 consequently she was promoted from server to manager in December 2013. She was
3 subjected to sexual harassment by Popo, but it was not until December 2013 when Popo
4 began making *consistent* grotesque sexual advances toward Plaintiff. *Infra*. Popo,
5 although married with children, was also having a sexual affair with another of the
6 corporate Defendants' employees.

7 17. Plaintiff performed her new job as manager well. In or around May 2014,
8 Salt & Lime (as opposed to Stone & Vine) operations were not doing well.
9 Accordingly, Popo asked Plaintiff to work at Salt & Lime also to train the staff, ensure
10 food lines were accurate, ensure the shifts went correctly, and generally to oversee
11 operations.

12 18. After a period of one month, Plaintiff resumed her full duties as Manager
13 at Stone & Vine. Due in part to Plaintiff's efforts at Salt & Lime, Popo promoted
14 Plaintiff from a shift manager to a salary manager. In other words, the corporate
15 Defendants agreed to pay Plaintiff a salary versus payment-per-shift. This occurred in
16 June 2014.

17 19. In early October 2014, Popo asked Plaintiff to take over duties at Black +
18 Bleu, which had opened in September 2014. Plaintiff's duties were similar to her duties
19 at Salt & Lime, e.g. correct management problems and ensure the smooth operation of a
20 new restaurant.

21 20. While Plaintiff was working at Black + Bleu, Plaintiff was promoted from
22 salary manager to General Manager.

23 21. During all relevant times, Popo was a "hands-on" owner in that he was
24 often present at the three restaurants.

25 22. At or around late 2013, Popo began making consistent inappropriate and
26 grotesque sexual advances during each shift Plaintiff worked. In other words, each shift
27 Plaintiff worked, Popo would make an inappropriate sexual advance if he was present.
28

1 23. The following non-exhaustive list demonstrates the depravity of these
2 sexual advances that consistently occurred from December 2013 until Plaintiff's
3 resignation in December 2014:

- 4 a. Popo would make inappropriate sexual comments to Plaintiff including,
5 "I heard you suck pretty good dick."
- 6 b. Popo would make inappropriate sexual comments about Plaintiff's body
7 including, "Your tits are getting smaller."
- 8 c. On several occasions, Popo would sexually assault Plaintiff including
9 forcefully grabbing her and injecting his tongue into Plaintiff's mouth.
- 10 d. Popo would repeatedly grab Plaintiff's breasts.
- 11 e. Popo would repeatedly slap and grab Plaintiff's buttocks.
- 12 f. During numerous conversations between Popo and Plaintiff, Popo would
13 rub his penis from the outside of his pants and ask Plaintiff to "suck it."
- 14 g. On several occasions, Popo would show Plaintiff his erect penis through
15 his pants.
- 16 h. On multiple occasions, Popo would aggressively pressure Plaintiff to
17 engage in three-way intercourse with him and another employee Amanda
18 Fearon.
- 19 i. On several occasions, Popo would ask Plaintiff to engage in sexual
20 relations with another employee, Amanda Fearon, while Popo suggested
21 he watch. Plaintiff did not engage in this activity.
- 22 j. Popo would often ask Plaintiff to describe how she masturbates.
- 23 k. Popo would send extremely depraved text messages to Plaintiff including
24 the following verbatim text: "I'm your boss when you are on your knees
25 I'm grabbing your hair and my cock is throbbing in your mouth."
- 26 l. Popo would repeatedly tell Plaintiff that "I want you to get on your
27 knees."

1 m. Popo would repeatedly attempt to reach his hands underneath Plaintiff's
2 skirt if she was wearing one.

3 n. Popo would repeatedly accuse Plaintiff of being scared to have an affair
4 with him.

5 o. On repeated occasions, Popo would grab Plaintiff's hips from behind her
6 and thrust his penis against her repeatedly.

7 p. On at least two occasions, Popo entered Plaintiff's office, revealed his
8 bare penis and demand sexual relations.

9 24. Even though married with children, during this timeframe Popo was
10 having a sexual affair with an employee named Amanda Fearon. Popo and Amanda
11 would often insist that Plaintiff have a "threesome" with them, which means that Popo
12 and Amanda approached Plaintiff about having sex all with each other at the same time.

13 25. In another even more disturbing scenario, Popo text messaged Plaintiff
14 while she was working. The text message read that Popo was at home and his daughters
15 were playing around at the house with some friends and he revealed that he was
16 "horney" [sic], to wit:

17 Popo: Nope right now I'm just laying down

18 Plaintiff: Hard to imagine

19 Popo: Girls have friends over and they are running around

20 Plaintiff: Cute!

21 Popo: But I am horney [sic]

22 Plaintiff: Oh dang. Just got not cute.

23 26. These occurrences of vile and disgusting behavior were continuous at
24 each of Plaintiff's shifts such that she could no longer tolerate the degradation coming
25 from Popo. She continuously asked him to stop, but he refused. Popo was aggressive
26 and Plaintiff did not have a human resources department or participate in any other
27 corrective opportunity to make the advances stop. Additionally, Popo was the owner.
28

1 27. There was no preventative or corrective opportunities provided by the
2 corporate Defendants, and therefore Plaintiff was forced to resign her position as
3 General Manager. In fact, the corporate defendants did not have an HR department or
4 other department dedicated to harassment policies.

5 28. The corporate Defendants did not have a policy or procedure to report
6 sexual harassment. Even more disturbing, the principal of the LLC owner was the one
7 perpetrating these vile and disgusting advances.

8 29. Although Plaintiff's job performance was impeccable, and Defendants
9 rewarded her performance with at least four promotions, the last of which was two
10 months prior to her resignation, Popo also repeatedly and aggressively treated her in a
11 derogatory manner in addition to the sexual advances. Examples of his hostility
12 included repeated yelling, using swear words toward Plaintiff. This hostility was both in
13 Plaintiff's office and via text messages. For example, in one text message exchange the
14 following occurred:

15 Popo: I am sick and tired of hearing fucking excuses!!...Really inaccurate well
16 everyone is reading it!...So its real on fucking yelp so its real

17 Plaintiff: Ok

18 30. As a result of Popo's continuous and degrading sexual advances and
19 hostile attitude toward Plaintiff, she has lost income, benefits, and she has suffered from
20 severe emotional distress that has exhibited physical symptoms such as sweating,
21 headaches, acne breakouts, anxiety and loss of sleep.

22 31. Popo's and the corporate Defendants' actions complained of herein were
23 evil, degrading and done with an evil heart. Some of Popo's actions toward Plaintiff
24 were so grotesque and dark that he and the corporate Defendants should be punished to
25 the point that such behavior never repeats itself.

26 32. Popo's and the corporate Defendants' actions were done with a reckless
27 disregard or intentional disregard for Plaintiff's federally protected rights. Popo has
28

1 settled two past sexual harassment cases – once while he owned Sapporo Restaurant in
2 Scottsdale and once while owner of Stone & Vine.

3 33. Despite the corporate Defendants knowledge of these two past sexual
4 harassment settlements, the corporate Defendants did not install a policy or procedure
5 of reporting sexual harassment.

6 34. Despite two past sexual harassment settlements, the corporate Defendants
7 did not take any action to ensure Popo would not commit sexual crimes against future
8 employees such as Plaintiff.

9 35. It is common knowledge amongst corporate Defendant employees and
10 past employees that Popo is a sexual fiend and that he regularly commits adultery and
11 commits sexual harassment with corporate defendant employees. Despite this
12 knowledge amongst the principals of the corporate Defendants, no human resources or
13 policy or procedure for reporting sexual harassment has been installed at the
14 restaurants.

15 36. The knowledge of Popo's sexual exploits is so widely known that
16 Plaintiff would receive random e-mail messages during the pre-litigation of this matter
17 such as the following: "Anyone and everyone who knows Joe Popo knows that this has
18 been going on for years. He was sued for sexual harassment while he was owner of
19 Sapporo. It was settled. I have seen it more than 50 times since I have known him.
20 Some girls like it because he is good looking and charming, others are afraid of losing
21 their jobs. He's a drunk and a pig, this is no secret. I guarantee you that if you
22 subpoenaed his good looking female employees dating back to Sapporo, he could
23 probably go to prison. Its that bad. Unfortunately, most girls won't do it out of fear and
24 some sort of fucked up loyalty to his family. Good luck with this, I would like to see
25 him get what he deserves."

26 37. The knowledge of Popo's sexual exploits is so widely known that
27 Plaintiff would receive communications during the pre-litigation of this matter that it is
28 common knowledge that "Popo fucks all the cocktail waitresses."

1 38. Popo's and the corporate Defendants' disregard for the law is a pattern
2 and not simply limited to Title VII and common law. On strong information and belief,
3 the corporate Defendants employ 35-40 undocumented workers in violation of federal
4 law. On strong information and belief, Popo has instructed managers and consultants
5 for the corporate Defendant restaurants to not E-verify kitchen staff.

6 39. During the pre-litigation to this matter and despite the parties being
7 represented by counsel, Popo would attempt to contact Plaintiff through telephone and
8 i-pad facetime.

9 40. During the pre-litigation to this matter, in an effort to warn other women
10 of the alleged predatory nature of Popo, Plaintiff distributed flyers advising of the
11 allegations in this matter. Only a few hours after the flyers were distributed, Popo and
12 the corporate Defendants directly or indirectly published the following defamatory
13 statements about Plaintiff on a public forum called thedirty.com:

14 41. Statement No. 1: A person who calls himself "Amypattersonisawhore"
15 defamed Plaintiff as follows: "This girl Amy Patterson is such a whore. Everyone
16 knows she fucks anything and everything, she sends nude photos to everyone. I'll have
17 to dig some out, Amy. I still have them. I heard you filed this BS... Nice try looking for
18 a payday but everyone in Scottsdale knows you're a lying whore. Stop spreading your
19 STDs while you are at it. There's enough herpes and genital warts. Thank God the one
20 you gave me was curable. GTFO here. Everyone is laughing at your fake shit."

21 42. Statement No. 2: A person who calls himself "Anonymous" defamed
22 Plaintiff as follows: "Just another slut trying to lie and get some money out of it...not
23 surprised if she knew exactly what she was doing the whole time."

24 43. Statement No. 3: A person who calls himself "Amypattersonisawhore"
25 defamed Plaintiff as follows: "Of course she knew. She was looking for a payday the
26 whole time. The only problem is Amy Patterson is huge whore with the std's to prove
27 it. Typical Scottsdale whore looking for free money and tired of 'working.' Well, if
28

1 Amy Patterson does score some cash, she should spend every dollar on Valtrex and
2 plastic surgery.” Valtrex is a drug used to treat certain sexually transmitted diseases.

3 44. Plaintiff does not have an STD. Plaintiff is not a whore. Plaintiff does not
4 send nude photos to everyone. Plaintiff does not have sex with anything and everything.

5 45. The above statements are false and were disseminated in a public forum
6 for millions of persons to view.

7 **COUNT ONE**
8 **(Violation of Title VII of Civil Rights Act – Hostile Work Environment)**
9 **(42 U.S.C. § 2000e et seq.)**
10 **(Corporate Defendants)**

11 46. Plaintiff incorporates by reference all allegations heretofore set forth.

12 47. Popo is an immediate supervisor for Plaintiff for all three corporate
13 Defendants. Popo is able to make tangible employment actions for all three corporate
14 Defendants such as hiring, firing, reassignment, and changing benefits. Accordingly,
15 pursuant to Title VII the corporate Defendants are vicariously liable for Popo’s acts.

16 48. Plaintiff was subjected to requests for sexual conduct, verbal conduct of a
17 sexual nature, and physical conduct of a sexual nature from Popo as discussed in more
18 detail above.

19 49. Plaintiff did not welcome this conduct.

20 50. The conduct was severe as described above and was so pervasive that it
21 occurred at every one of Plaintiff’s shifts.

22 51. Plaintiff perceived her working environment to be both abusive and
23 hostile to the point that she found the work environment so hostile and abusive that she
24 resigned her position.

25 52. Plaintiff had nowhere to turn to report the sexual harassment and assault
26 coming from her supervisor and owner, Joe Popo, for reasons stated above.

27 53. A reasonable woman in Plaintiff’s position would consider the
28 environment Plaintiff experienced to be abusive, hostile and degrading.

55. Defendant acted with malice and an evil heart as described above, and Defendant knew and showed a reckless disregard that its actions violated equal protection laws. Therefore, Plaintiff is entitled to punitive damages. Defendants should be punished for Popo's degrading, offensive and malicious attitude and actions toward a person of the opposite sex.

56. Plaintiff incorporates by reference all allegations heretofore set forth.

57. Under common law, Popo's actions described above were not within the course and scope of employment since there was no tangible benefit to the corporate Defendants for each disgusting act he took toward Plaintiff.

58. Popo's conduct was extreme and outrageous, beyond all possible bounds of decency, and utterly intolerable in a civilized community in any setting, e.g. Popo pulling down his pants and displaying and touching his penis in front of Plaintiff.

59. Popo's conduct was intended to cause and/or was done with reckless disregard of the near certainty that Plaintiff would suffer severe emotional distress.

60. Plaintiff suffered severe emotional distress, which was exhibited by outward physical symptoms.

61. Popo's conduct complained of herein was done with malice, an evil heart, and was so outrageous and so likely to cause tremendous harm to the Plaintiff thereby entitling the Plaintiff to punitive damages.

62. Plaintiff incorporates by reference all allegations heretofore set forth.

1 63. Under common law, Popo's actions described above were not within the
2 course and scope of employment since there was no tangible benefit to the corporate
3 Defendants for each disgusting act he took toward Plaintiff.

4 64. Popo intended to cause harm and offensive contact with Plaintiff, he did
5 cause harm and offensive contact with Plaintiff, and as a result Plaintiff suffered
6 damages.

7 65. Popo's conduct complained of herein was done with malice, an evil heart,
8 and was so outrageous and so likely to cause tremendous harm to the Plaintiff thereby
9 entitling her to punitive damages.

10 **COUNT FOUR**
11 **(Assault)**
12 **(Popo Defendants)**

13 66. Plaintiff incorporates by reference all allegations heretofore set forth.

14 67. Under common law, Popo's actions described above were not within the
15 course and scope of employment since there was no tangible benefit to the corporate
16 Defendants for each disgusting act he took toward Plaintiff.

17 68. Popo intended to cause an apprehension in Plaintiff of immediately
18 harmful or offensive contact, Defendant's conduct did cause Plaintiff an apprehension
19 of immediately harmful or offensive contact, and as a result Plaintiff suffered damages.

20 69. Popo's conduct complained of herein was done with malice, an evil heart,
21 and was so outrageous and so likely to cause tremendous harm to Plaintiff thereby
22 entitling her to punitive damages.

23 **COUNT FIVE**
24 **(Corporate and Popo Defendants)**
25 **(Defamation)**

26 70. Plaintiff incorporates by reference all allegations heretofore set forth.
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28

PRAYER FOR RELIEF

79. WHEREFORE, Plaintiff prays for relief as follows:

- a. Declaring the acts and practices complained of herein are in violation of Title VII;
- b. General damages and compensatory damages to be proven at trial, including:
 - i. Back pay in an amount to be proven at trial;
 - ii. Front pay in an amount to be proven at trial;
 - iii. The value of lost benefits.
- c. Punitive damages pursuant to the Title VII;
- d. Punitive damages pursuant to the common law counts in the amount of not less than \$5,000,000.00;
- e. Prejudgment and post-judgment interest;
- f. Attorney's fees and costs of suit;
- g. For such other relief to which Plaintiff may be entitled and that this Court deems just and proper.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff hereby demands a jury trial.

RESPECTFULLY SUBMITTED this 18th day of March, 2015.

THE STROJNIK FIRM LLC

By /s/ Peter K. Strojnik

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